

## **Section 1. Places where smoking is prohibited.**

- (a) Smoking shall be prohibited in most public places and enclosed places of employment within the city, including, but not limited to, the following places:
- (1) Within any enclosed facility within all places of employment and/or within any enclosed area available to and customarily used by the general public in all businesses, including but not limited to, retail stores, offices, banks, laundromats, warehouses, manufacturing facilities, food establishments and restaurants, bars, and country clubs, except where specifically provided for in Section 2(a) below;
  - (2) Hotels and motels, except as provided for in Section 2(a,7) below;
  - (3) Buses, bus terminals, taxicabs, airports and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;
  - (4) Movie theaters, drama and recital theaters, lecture halls, galleries, libraries, museums, conference centers, meeting rooms, and outdoor amphitheaters;
  - (5) In or within 25 feet of sports stadiums, stadium seating, ticketing, queuing, and waiting areas, concession stands, and restrooms, whether public or private;
  - (6) In public parks, including but not limited to public recreation fields, pools, children's playground equipment, concession stands, and restrooms, except as provided for in Section 2(a,5), below;
  - (7) Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;
  - (8) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
  - (9) Elevators;
  - (10) Restrooms, lobbies, reception areas, hallways and any other common-use areas;
  - (11) Service lines and waiting queues, whether indoor or outdoor;
  - (12) Polling places;
  - (13) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision

of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city; and

- (14) Within 15 feet of any door, operable window/vent or other opening to an indoor enclosed area.

## **Section 2. Places where smoking is not prohibited.**

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

- (1) Private residences, including porch and yard areas, except when used as a child care, adult day care, health care facility, or home occupation;
- (2) Personal automobiles;
- (3) Outdoor places of employment, except where employees have to provide the public with service such as food or beverage service, within 15 feet of any door, operable window/vent or other opening to an indoor enclosed area, service lines and waiting queues, or as prohibited in Section 1(a), above;
- (4) Public sidewalks, except within 15 feet of any door, operable window/vent or other opening to an indoor enclosed area, service lines and waiting queues, or as prohibited in Section 1(a) above;
- (5) Parking lots within public parks, except within 25 feet of any door, operable window/vent or other opening to an indoor enclosed area, service lines and waiting queues, or as prohibited in Section 1(a) above;
- (6) Enclosed areas within private clubs that are not customarily used by or accessible to the general public may be designated as a smoking room for the use of tobacco products, subject to the following definitions and requirements:
  - a. For purposes of Section 2(a,6), "private club" shall mean any club wherein:
    - i. The membership is not open to the general public; and
    - ii. The club's land and improvements are owned or controlled by the members, where "controlled by" shall mean through a long term lease or other managing interest in real property such as may commonly be found in private country clubs or fraternal organizations.
  - b. For purposes of Section 2(a,6), "private club" shall not mean a private club restaurant as defined by Texas Alcoholic Beverage Commission.
  - c. Smoking rooms shall meet all of the following physical and operational standards:

- i. Smoking rooms shall be required to post signs at the entrance to the room that state "Smoking Room, Members Only";
    - ii. Smoking rooms shall be required to provide a foyer with two doors separating the smoking and non-smoking areas;
    - iii. Smoking rooms shall be required to provide separate ventilation and HVAC systems that prevent the commingling of air with any other part of the private club; and
    - iv. Smoking rooms shall be separate from the private/country club's banquet or dining areas, bar or lounge areas, employee areas, kitchens, retail and pro shop areas, locker rooms, restrooms, other common areas, hallways, and other non-smoking areas and shall not be operated with food or beverage service *except as provided in sub-paragraph (8) below*.
- (7) Not more than ten percent of hotel and motel rooms rented to guests shall be designated as smoking rooms. The following standards shall apply:
- a. All smoking rooms shall be on the same floor, shall be contiguous to the other smoking rooms and shall be configured and ventilated in a manner to restrict the smoke from these rooms from infiltrating into areas where smoking is prohibited under provisions of this article;
  - b. Separate ventilation and HVAC systems that prevent the commingling of air with other rooms, hallways and all other non-smoking areas shall be required; and
  - c. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- (8) *Enclosed areas in restaurants may be designated as a smoking room for the use of tobacco products, subject to the following requirements;*
- a. *Smoking rooms shall meet all of the following physical and operational standards:*
    - i. *Smoking rooms shall be required to post signs at the entrance to the room that state "Smoking Room";*
    - ii. *Smoking rooms shall be required to provide a foyer with two doors separating the smoking and non-smoking areas;*
    - iii. *Smoking rooms shall not exceed 25% of the total customer seating area within the restaurant;*
    - iv. *Smoking rooms shall be required to provide separate ventilation and HVAC systems that prevent the commingling of air with any other part of the restaurant;*
    - v. *Any restaurant with a smoking room shall provide access to nonsmoking areas without passage through a smoking area;*
    - vi. *Any restaurant with a smoking room shall provide restrooms in a nonsmoking area without passage through a smoking area .*

### **Section 3. Posting of signs.**

- (a) The owner, manager or other person having control of such building or premise where smoking is prohibited by this article shall have a conspicuously posted sign clearly stating "No Smoking" at each entrance, whether for the public, employees or deliveries, and at restroom entrances.
- (b) Such "No Smoking" signs shall have bold lettering of not less than one inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).
- (c) Any owner, manager, or other person having control of any establishment regulated by this article shall be responsible for posting appropriate signage.

### **Section 4. Enforcement.**

- (a) Enforcement of this article shall be implemented by the city manager or his/her designee by issuance of a citation.
- (b) It is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this article:
  - (1) To post signs in accordance with Section 3 of this article;
  - (2) To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premise;
  - (3) To advise a person who violates this article that smoking is not allowed; and
  - (4) To request a person remove themselves from this location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

### **Section 5. Offenses and Penalties.**

- (a) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply with the following sections and subsections of this article:
  - (1) Section 4(b); and
  - (2) Sections 5(a) & 5(b).
- (c) Any person who violates any provision of this article shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed \$500.00.
- (d) Every act in violation shall constitute a separate offense.

- (e) Unless otherwise specifically set forth herein allegation and evidence of culpable mental state are not required for the proof of an offense of this article.